

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In The Matter Of:)	
)	
Creation Of A)	FCC Docket No. RM-11287
Low Power AM Radio Service)	

WRITTEN COMMENTS OF
THE AMHERST ALLIANCE,
THE MICHIGAN MUSIC IS WORLD CLASS! CAMPAIGN,
THE LPAM NETWORK,
DON SCHELLHARDT, ESQUIRE
AND
NICKOLAUS E. LEGGETT N3NL

On August 19, 2005, 5 parties filed with the Commission a Petition For Rulemaking to establish a Low Power AM (LPAM) Radio Service.

On October 23, 2005, the Commission opened Docket RM-11287, solicited public comments on the Petition and set the Written Comments deadline 30 days after the date of issuance of the Notice. This means the deadline is Monday, November 21, 2005.

The undersigned parties are the 5 signatories of that Petition For Rulemaking.

We vigorously commend, and applaud, the Commission's decision to invite public comments on the August 19 LPAM Petition. Someday, this decision may stand as a landmark initiative in the history of opening the

public airwaves to a newer, more varied and more broadly representative set of voices.

Progress will only be made, however, if the current proceedings are followed by a proposed rule and then a final rule. We urge the FCC to move to the proposed rule stage as expeditiously as it can, within the limits of reasoned and prudent decision-making.

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Reasons For Expeditious Action By The Commission

The most obvious reason for expeditious action to license Low Power *AM* radio stations is the fact that so many metropolitan areas, containing so much of our nation's population, have for years been denied the benefit of Low Power *FM* (LPFM) radio stations. Due to congestion on the FM Band, many urban areas have only a few LPFM stations. Other urban areas, notably including Metropolitan Detroit and Metropolitan Boston, have *no* LPFM stations at all. *Further*, the same urban areas are likely to *remain* without any LPFM stations, even if the current statutory restrictions on LPFM channel spacing, imposed by a "lame duck" Session of Congress in 2000, are finally repealed.

For such metropolitan areas, the only hope for bringing *any* Low Power Radio stations at all is the prospect of placing Low Power Radio stations on the AM dial -- *perhaps* supplemented by a 10-watt LPFM station or two, when and if the Commission finally opens its long-promised "filing window" for LP10 applicants on the FM Band.

In most of America's urban areas, the frequencies available for LPFM stations range in number from 3 or less to zero. Our cities have suffered

long enough without the kind of small, community-oriented Low Power Radio stations that are starting to be established in other parts of America.

A *second* compelling reason for expeditious action to license Low Power *AM* radio stations is the fact that the Commission, in various ongoing Dockets, has been carefully considering major changes in the Low Power *FM* Radio Service. A broadly focused proceeding on Broadcast Localism, 04-233 (once known as Docket RM-10803), has attracted almost 82,800 Written Comments (most of them calling for one or more media reforms to expand the presence of locally owned broadcasting). Meanwhile, in a re-opened FCC Docket 99-25, the FCC has also been considering new ways to protect and expand the existing, locally focused LPFM Radio Service. That Docket has drawn roughly 16,200 Written Comments, most of which support the strengthening of LPFM.

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Taken together, the two Dockets have attracted 99,000 Written Comments -- with the vast majority of those Written Comments calling for revival of locally focused broadcasting, both as a general proposition *and* through the vehicle of Low Power Radio.

Further, many of the commenters are individual radio listeners: that is, the kind of “everyday Americans” who do not typically complain to the FCC. *Something* has made them concerned enough to venture, forcefully, into public policy forums.

Changes which are now under consideration, in *both* Dockets, include protection of established LPFM stations (and also Class D educational stations) from displacement by full power radio stations ... allowing proposed LPFM stations to displace “satellators” and other “long distance translators” ... and increasing the power ceilings for certain LPFM stations, in *highly rural* areas, from 100 watts to 250 watts.

Expeditious action on the August 19, 2005 LPAM Petition would empower the Commission to issue a proposed rule on a new Low Power *AM* Radio Service *at the same time* as proposed rulemakings on changes affecting the Low Power *FM* Radio Service.

Perhaps the proposed rules could even be merged together.

Such linkage of the potentially forthcoming LPFM and LPAM Dockets, or even *consolidation* of these Dockets, would certainly enhance the economy of administrative resources at the FCC. Life would be made easier for all concerned, including the Commissioners and the Commission's staff.

Details Of The LPAM Petition

While all 5 of the Petitioners are proud of the work we have done in drafting our LPAM Petition, we are also aware that the Petition is only a *starting point* for discussion, analysis and other deliberations -- by both the Commission and commenting parties. Preserving every detail of our LPAM Petition is less important to us than keeping in motion *the process* of regulatory action on a Low Power AM Radio Service.

We know, of course, that the Commission typically views *any* Petition For Rulemaking as only a starting point for further deliberations.

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However, we urge every potential commenter in this Docket to become aware of this "fact of life" as well. We anticipate that this Docket will rightly attract Written Comments from many parties who are complete or comparative newcomers to the regulatory decision-making process. We encourage such an expansion of citizen participation -- because it is an important part of what America is all about. At the same time, we stress to such potential commenters that Written Comments in Docket RM-11287 are not intended to be an "up or down" vote. Commenting parties are free to

endorse some aspects of the LPAM Petition while opposing others, to oppose some aspects of the LPAM Petition while endorsing others, and/or to offer their own independent approaches to either specific issues or to the entire Petition.

Key Principles Of The New LPAM Petition

While we consider it virtually inevitable that some details of the August 19, 2005 LPAM Petition will be changed by the Commission over the course of the regulatory decision-making process. We urge the Commission to honor the following *key principles of the LPAM Petition*, even as it considers possible modification of the details:

- 0 Unlike LPFM stations, LPAM stations should be free to air commercials
- 0 Unlike full power commercial stations, LPAM stations should be exempt from mandatory license auctions (through the Commission's own direct authority, if this is legally possible, and otherwise through an appeal by the Commission for the necessary Congressional legislation)
- 0 Unlike LPFM licenses, LPAM licenses should be available to individuals and entrepreneurs -- not limited to organizations
- 0 Like LPFM licenses, LPAM licenses should be protected from *any* ownership interest -- or other financial interest -- on the part of *any* established broadcaster(s)

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- 0 Unlike LPFM license applicants, LPAM license applicants should receive a "bonus point" for proposing to bring new types of (financially sustainable) programming content to a given local area -- without regard to whether or not an applicant has a record of "established community service"
- 0 Unlike LPFM stations, LPAM stations should be designed to

- establish themselves in those (mostly urban) areas where few if any frequencies are available for current or future LPFM stations
- 0 The basic rules for LPAM stations should be reviewed by the FCC a few years after the initial licenses are granted, thereby allowing the Commission to consider possible changes in light of the actual operating experience of LPAM stations *and* the possible impact of implementing the In Band On Channel (IBOC) form of Digital Radio on the AM Band

Please note that these 7 “key principles” have *not* been enumerated in any particular order of priority.

The truth is:

Each of the 5 LPAM Petitioners would probably rank these 7 principles in a *different* order of priority. However, this difference in possible priorities does not void the fact that all 5 of the Petitioners urge the Commission to apply all 7 of the “key principles” when the final version of the Low Power AM Radio Service is formulated.

Conclusion

Any and all of the 5 LPAM Petitioners may submit additional filings in FCC Docket RM-11287, collectively and/or individually, during the current comment period.

For now, the 5 undersigned Petitioners reiterate our heartiest commendation to the Commission for its decision to initiate this Docket.

For the reasons we have stated herein, we urge the Commission to proceed to a proposed rule as expeditiously as possible, within the limits of reasoned and prudent decision-making.

We further urge the Commission, as the regulatory process unfolds, to apply to its work in this Docket the 8 key principles embodied in our LPAM Petition.

Respectfully submitted,

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Dated: October 28, 2005